

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Guillen

H.B. No. 4542

A BILL TO BE ENTITLED

1 AN ACT

2 relating to reports by persons involved in the manufacture and  
3 distribution of alcoholic beverages for purposes of sales and use  
4 taxes.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 151.461, Tax Code, is amended by adding  
7 Subdivision (1-a) and amending Subdivision (5) to read as follows:

8 (1-a) "Brewpub" means a brewpub for which a person  
9 holds a brewpub license under Chapter 74, Alcoholic Beverage Code.

10 (5) "Retailer" means a person required to hold:

11 (A) a wine and beer retailer's permit under  
12 Chapter 25, Alcoholic Beverage Code;

13 (B) a wine and beer retailer's off-premise permit  
14 under Chapter 26, Alcoholic Beverage Code;

15 (C) a temporary wine and beer retailer's permit  
16 or special three-day wine and beer permit under Chapter 27,  
17 Alcoholic Beverage Code;

18 (D) a mixed beverage permit under Chapter 28,  
19 Alcoholic Beverage Code;

20 (E) a daily temporary mixed beverage permit under  
21 Chapter 30, Alcoholic Beverage Code;

22 (F) a private club registration permit under  
23 Chapter 32, Alcoholic Beverage Code;

24 (G) a certificate issued to a fraternal or

1 veterans organization under Section 32.11, Alcoholic Beverage  
2 Code;

3 (H) a daily temporary private club permit under  
4 Subchapter B, Chapter 33, Alcoholic Beverage Code;

5 (I) a temporary auction permit under Chapter 53,  
6 Alcoholic Beverage Code;

7 (J) a retail dealer's on-premise license under  
8 Chapter 69, Alcoholic Beverage Code;

9 (K) a temporary license under Chapter 72,  
10 Alcoholic Beverage Code; ~~or~~

11 (L) a retail dealer's off-premise license under  
12 Chapter 71, Alcoholic Beverage Code, except for a dealer who also  
13 holds a package store permit under Chapter 22, Alcoholic Beverage  
14 Code; or

15 (M) a brewpub license under Chapter 74, Alcoholic  
16 Beverage Code.

17 SECTION 2. Section 151.462, Tax Code, is amended to read as  
18 follows:

19 Sec. 151.462. REPORTS BY BREWERS, MANUFACTURERS, BREW PUBS,  
20 WHOLESALERS, AND DISTRIBUTORS. (a) The comptroller shall require  
21 each brewer, manufacturer, brewpub, wholesaler, distributor, or  
22 package store local distributor to file with the comptroller a  
23 report each month of alcoholic beverage sales to retailers in this  
24 state.

25 (b) Each brewer, manufacturer, brewpub, wholesaler,  
26 distributor, or package store local distributor shall file a  
27 separate report for each permit or license held on or before the

1 25th day of each month. The report must contain the following  
2 information for the preceding calendar month's sales in relation to  
3 each retailer:

4 (1) the brewer's, manufacturer's, brewpub's,  
5 wholesaler's, distributor's, or package store local distributor's  
6 name, address, taxpayer number and outlet number assigned by the  
7 comptroller, and alphanumeric permit or license number issued by  
8 the Texas Alcoholic Beverage Commission;

9 (2) the retailer's:

10 (A) name and address, including street name and  
11 number, city, and zip code;

12 (B) taxpayer number assigned by the comptroller;  
13 and

14 (C) alphanumeric permit or license number issued  
15 by the Texas Alcoholic Beverage Commission for each separate retail  
16 location or outlet to which the brewer, manufacturer, brewpub,  
17 wholesaler, distributor, or package store local distributor sold  
18 the alcoholic beverages that are listed on the report; and

19 (3) the monthly net sales made by the brewer,  
20 manufacturer, brewpub, wholesaler, distributor, or package store  
21 local distributor to the retailer for each outlet or location  
22 covered by a separate retail permit or license issued by the Texas  
23 Alcoholic Beverage Commission, including separate line items for:

24 (A) the number of units of alcoholic beverages;

25 (B) the individual container size and pack of  
26 each unit;

27 (C) the brand name;

1 (D) the type of beverage, such as distilled  
2 spirits, wine, or malt beverage;

3 (E) the universal product code of the alcoholic  
4 beverage; and

5 (F) the net selling price of the alcoholic  
6 beverage.

7 (c) Except as provided by this subsection, the brewer,  
8 manufacturer, brewpub, wholesaler, distributor, or package store  
9 local distributor shall file the report with the comptroller  
10 electronically. The comptroller may establish procedures to  
11 temporarily postpone the electronic reporting requirement for a  
12 brewer, manufacturer, brewpub, wholesaler, distributor, or package  
13 store local distributor who demonstrates to the comptroller an  
14 inability to comply because undue hardship would result if it were  
15 required to file the return electronically. If the comptroller  
16 determines that another technological method of filing the report  
17 is more efficient than electronic filing, the comptroller may  
18 establish procedures requiring its use by brewers, manufacturers,  
19 brewpubs, wholesalers, distributors, and package store local  
20 distributors.

21 SECTION 3. Subchapter I-1, Chapter 151, Tax Code, is  
22 amended by adding Section 151.4661 to read as follows:

23 Sec. 151.4661. APPLICABILITY TO CERTAIN BREWPUBS. This  
24 subchapter applies only to a brewpub that engages in activities  
25 authorized by Section 74.08, Alcoholic Beverage Code.

26 SECTION 4. Section 151.468(b), Tax Code, is amended to read  
27 as follows:

1           (b) In addition to the penalties imposed under Subsection  
2 (a), a brewer, manufacturer, brewpub, wholesaler, distributor, or  
3 package store local distributor shall pay the state a civil penalty  
4 of not less than \$25 or more than \$2,000 for each day a violation  
5 continues if the brewer, manufacturer, brewpub, wholesaler,  
6 distributor, or package store local distributor:

7                   (1) violates this subchapter; or

8                   (2) violates a rule adopted to administer or enforce  
9 this subchapter.

10           SECTION 5. Section 151.470, Tax Code, is amended to read as  
11 follows:

12           Sec. 151.470. AUDIT; INSPECTION. The comptroller may  
13 audit, inspect, or otherwise verify a brewer's, manufacturer's,  
14 brewpub's, wholesaler's, distributor's, or package store local  
15 distributor's compliance with this subchapter.

16           SECTION 6. This Act takes effect September 1, 2019.

ADOPTED

MAY 21 2019

*Helen Spaulding*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

*J. J. Hingis*

1 Amend H.B. No. 4542 (senate committee printing) by adding the  
2 following appropriately numbered SECTION to the bill and  
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_. Section 111.006, Tax Code, is amended by amending  
5 Subsection (h) and adding Subsection (j) to read as follows:

6 (h) The comptroller shall disclose information to a person  
7 regarding net sales by quantity, brand, and size that is submitted  
8 in a report required under Section 151.462 if:

9 (1) the person requesting the information holds a permit  
10 or license under Chapter 19, 20, 21, 37, 64, 65, or 66, Alcoholic  
11 Beverage Code; [~~and~~]

12 (2) the request relates only to information regarding  
13 the sale of a product distributed by the person making the request;  
14 and

15 (3) the comptroller determines that the information  
16 reported under Section 151.462 or in accordance with rules adopted  
17 under Subsection (j) is sufficiently detailed to protect the  
18 confidentiality of sales information relating to products not  
19 distributed by the person requesting the information.

20 (j) The comptroller may adopt rules to administer this  
21 section, including rules requiring a person requesting information  
22 under Subsection (h) to file reports on distributions of the  
23 person's products made to other persons.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 22, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB4542** by Guillen (Relating to reports by persons involved in the manufacture and distribution of alcoholic beverages for purposes of sales and use taxes.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 151, Subchapter I-1 of the Tax Code, regarding reports by persons involved in the manufacture and distribution of alcoholic beverages, to require brewpubs that sell beer, ale, or malt liquor to a retailer to have the same sales tax reporting requirements as brewers, manufacturers, wholesalers, distributors, and package store local distributors.

The bill would amend Chapter 111 of the Tax Code, regarding confidentiality of information required to be disclosed by the Comptroller of Public Accounts.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** WP, KK, SD, SMad

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 15, 2019**

**TO:** Honorable Jane Nelson, Chair, Senate Committee on Finance

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB4542** by Guillen (Relating to reports by persons involved in the manufacture and distribution of alcoholic beverages for purposes of sales and use taxes.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend Chapter 151, Subchapter I-1 of the Tax Code, regarding reports by persons involved in the manufacture and distribution of alcoholic beverages, to require brewpubs that sell beer, ale, or malt liquor to a retailer to have the same sales tax reporting requirements as brewers, manufacturers, wholesalers, distributors, and package store local distributors.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** WP, KK, SD, SMad

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 18, 2019**

**TO:** Honorable Dustin Burrows, Chair, House Committee on Ways & Means

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB4542** by Guillen (relating to reports by persons involved in the manufacture and distribution of alcoholic beverages for purposes of sales and use taxes.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend Chapter 151, Subchapter I-1 of the Tax Code, regarding reports by persons involved in the manufacture and distribution of alcoholic beverages, to require brewpubs that sell beer, ale, or malt liquor to a retailer to have the same sales tax reporting requirements as brewers, manufacturers, wholesalers, distributors, and package store local distributors.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** WP, KK, SD, SMad

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 8, 2019**

**TO:** Honorable Dustin Burrows, Chair, House Committee on Ways & Means

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB4542** by Guillen (Relating to reports by persons involved in the manufacture and distribution of alcoholic beverages for purposes of sales and use taxes.), **As Introduced**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would amend Chapter 151, Subchapter I-1 of the Tax Code, regarding reports by persons involved in the manufacture and distribution of alcoholic beverages, to require brewpubs that sell beer, ale, or malt liquor to a retailer to have the same sales tax reporting requirements as brewers, manufacturers, wholesalers, distributors, and package store local distributors.

The Comptroller indicates there would be no significant impact on state tax revenue.

The bill would take effect September 1, 2019.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** WP, KK, SD

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**TAX/FEE EQUITY NOTE**

**86TH LEGISLATIVE REGULAR SESSION**

**April 18, 2019**

**TO:** Honorable Dustin Burrows, Chair, House Committee on Ways & Means

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB4542** by Guillen (relating to reports by persons involved in the manufacture and distribution of alcoholic beverages for purposes of sales and use taxes.), **Committee Report 1st House, Substituted**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

**Source Agencies:**

**LBB Staff:** WP, KK

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**TAX/FEE EQUITY NOTE**

**86TH LEGISLATIVE REGULAR SESSION**

**April 18, 2019**

**TO:** Honorable Dustin Burrows, Chair, House Committee on Ways & Means

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB4542** by Guillen (Relating to reports by persons involved in the manufacture and distribution of alcoholic beverages for purposes of sales and use taxes.), **As Introduced**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

**Source Agencies:**

**LBB Staff:** WP, KK